

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

AARON QUINN KLEIN,

Petitioner,

v.

TOM COLBERT, et al.,

Respondent.

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Case No. CIV-13-565-F

REPORT AND RECOMMENDATION

Petitioner, a state prisoner appearing pro se, has filed a petition for habeas corpus relief pursuant to 28 U.S.C. § 2254. Pursuant to an order entered by United States District Judge Stephen P. Friot, this matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B).

On June 11, 2013, the undersigned entered an order requiring Petitioner to either pay the \$5.00 filing fee or submit a request to proceed *In Forma Pauperis*. ECF No. 5. The undersigned gave Petitioner until July 2, 2013, to cure these deficiencies. *Id.* To date, Petitioner has not complied with the order, and has offered no explanation for his failure to do so. The undersigned notes that this is the twenty-seventh action Petitioner has filed in this District, and so presumes that he is aware of the rules and requirements governing the prosecution of litigation—particularly the need to respond and comply with orders of the Court.

The undersigned finds that Petitioner's abject failure to comply with the Court's order, combined with the Court's inherent authority to manage and control its caseload,

warrants a dismissal of this action without prejudice. *Brandenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980) (*per curiam*).

RECOMMENDATION

Based on the foregoing findings, it is recommended that this action be **DISMISSED WITHOUT PREJUDICE** for Petitioner's failure to pay the filing fee, failure to apply to proceed without paying the filing fee, and failure to comply with this Court's orders. Petitioner is advised of his right to file an objection to this Report and Recommendation with the Clerk of Court by **October 4, 2013**, in accordance with 28 U.S.C. § 636 and Fed.R.Civ.P.72. Petitioner is further advised that any failure to make timely objection to this Report and Recommendation waives the right to appellate review of the factual and legal issues addressed herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

This Report and Recommendation **disposes of all issues** referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED on September 17, 2013.



SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE